



BILLING CODE: 4810-33-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities:

Information Collection Renewal; Comment Request;

Affiliate Marketing

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the renewal of an information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning the renewal of an information collection titled, "Affiliate Marketing."

DATES: Comments must be submitted on or before [INSERT DATE 60 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by e-mail if possible.

Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557-0230, 400 7th Street, SW., Suite 3E-218,

Mail Stop 9W-11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465-4326 or by electronic mail to regs.comments@occ.treas.gov. You may personally inspect and photocopy comments at the OCC, 400 7th Street, SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: You may request additional information by contacting: Johnny Vilela or Mary H. Gottlieb, OCC Clearance Officers, (202) 649-5490, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is seeking renewal of the following information collection:

Title: Fair Credit Reporting Affiliate Marketing.

OMB Control No.: 1557-0230.

Frequency of Response: On occasion.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 166,444.

Total Annual Burden: 17,189 hours.

Description: Section 214 of the FACT Act,¹ which added section 624 to the Fair Credit Reporting Act (FCRA),² generally prohibits a person from using certain information received from an affiliate to make a solicitation for marketing purposes to the consumer, unless the consumer is given notice and an opportunity and simple method to opt out of making such solicitations. Section 214 also requires the Agencies,³ the Securities and Exchange Commission (SEC), and the Federal Trade Commission (FTC), in consultation and coordination with each other, to issue regulations implementing section 214 that, to the extent possible, are consistent and comparable.

Administration of these regulations, which were codified by the OCC at 12 CFR 41.20-41.28 and that have not changed since they were last cleared by OMB under the PRA, has been transferred to the Bureau of Consumer Financial Protection (CFPB) and are now found at 12 CFR 1022.20-1022.27. Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act,⁴ (Dodd-Frank Act) transferred the regulations and the CFPB republished them (76 FR 79308 (December 21, 2011)). The burden estimates have been revised to remove the burden attributable to OCC-regulated institutions with over \$10 billion in total assets, now carried by CFPB pursuant to section 1025 of the Dodd-Frank Act. The OCC retains enforcement authority and carries burden for those institutions under its supervision with total assets of \$10 billion or less.

¹ Fair and Accurate Credit Transactions Act of 2003, Pub. L. 108-159, 117 Stat. 1952 (December 4, 2003).

² 15 U.S.C. 1681 *et seq.*

³ OCC, Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

⁴ Pub. L. 111-203, 124 Stat. 1955, July 21, 2010

Financial institutions use the required notices to inform consumers about their rights under section 214 of the FACT Act. Consumers use the notices to decide if they want to receive solicitations for marketing purposes or opt out. Financial institutions use the consumers' opt out responses to determine the permissibility of making a solicitation for marketing purposes to consumers.

If a person receives certain consumer eligibility information from an affiliate, the person may not use that information to make solicitations to the consumer about its products or services, unless the consumer is given notice and a simple method to opt out of such use of the information, and the consumer does not opt out. Exceptions include, a person using eligibility information: (1) to make solicitations to a consumer with whom the person has a pre-existing business relationship; (2) to perform services for another affiliate subject to certain conditions; (3) in response to a communication initiated by the consumer; or (4) to make a solicitation that has been authorized or requested by the consumer. A consumer's affiliate marketing opt-out election must be effective for a period of at least five years. Upon expiration of the opt-out period, the consumer must be given a renewal notice and an opportunity to renew the opt-out before information received from an affiliate may be used to make solicitations to the consumer.

Comments: Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

- (a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;
- (b) The accuracy of the OCC's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 6, 2013

Michele Meyer
Assistant Director, Legislative and Regulatory Activities Division

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